
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

JAMES L. RAINWATER,

Plaintiff,

versus

21st MORTGAGE CORPORATION,

Defendant.

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CIVIL ACTION NO. 1:09-CV-331

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, for pretrial proceedings pursuant to General Order 05-07, entered on April 22, 2009. The court has received and considered the report of the United States magistrate judge, who recommends that the court dismiss this action *sua sponte* for lack of subject-matter jurisdiction based on the *Rooker-Feldman* doctrine, or, alternatively, grant defendant's motion to dismiss, construed as a motion for summary judgment, because there is no genuine issue as to any material fact relating to defendant's affirmative defense of *res judicata* and defendant is entitled to judgment as a matter of law. No objections have been filed.

The magistrate judge's report is hereby **ADOPTED** and defendant's motion to dismiss [Docket No. 7], construed as a motion for summary judgment, is **GRANTED**. It is further

ORDERED that the reference to the magistrate judge is **VACATED**. It is further

ORDERED that all pending motions are **DENIED** as moot.

Final Judgment will be entered separately.

SIGNED at Beaumont, Texas, this 29th day of March, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE